

Statement by Bert Ely to the Alexandria City Council**Passage of the Sales Tax Referendum could hurt Alexandria**

September 14, 2002

Mayor Donley and members of Council, I am Bert Ely and I appear before you today to urge Council to reconsider its support of the one-half cent sales-tax referendum that will be on the ballot on November 5. Not only could hiking the sales tax to five percent hurt Alexandria, but its benefits could prove to be illusory if the General Assembly diverts proceeds of the tax hike away from promised Northern Virginia transportation projects.

Alexandrians would be hurt in three ways by a sales tax hike. First, this 11% tax increase will eliminate the sales tax differential between Alexandria and Maryland and narrow the differential between Alexandria and D.C. by 40%. Consequently, Alexandria retailers may no longer capture some high-ticket sales from Maryland and D.C. residents. Those lost sales also will cost the City of Alexandria one percent of the amount of those sales, which is the portion of the sales tax that flows directly into the City's coffers. Budget Director Mark Jinks pooh-poohed that concern when I raised it with him the other day, but experience sadly shows that there is no such thing as a painless tax hike.

Second, the bond rating agencies will treat any debt issued by the new Northern Virginia Transportation Authority (NVTa) as "overlapping debt." That is, Alexandria's share of that debt will be treated as part of the total state and local debt burden borne by Alexandria citizens. Hence, bonds issued by the NVTa will reduce Alexandria's debt capacity, a fact that I confirmed with one of the bond rating agencies after I spoke with Mr. Jinks.

Third, Alexandria voters may be so angered by their increased property tax assessments and the prospect of a sales-tax hike that they will vote against two important statewide bond issues -- \$900 million of bonds to finance "capital projects at state-supported colleges, universities, museums, and other educational facilities" and \$119 million of bonds to pay for "capital projects at state-supported parks and recreational facilities." It would be sad if angry voters rejected these two worthwhile bond authorizations because they felt their over-taxed backs were being broken by also being asked to hike the sales tax.

The much-advertised benefits of the sales-tax hike for Alexandria may be illusory. Any commitments that have been made to Alexandria, such as using sales-tax proceeds to fund a new storage facility for DASH buses, will never materialize if the Commonwealth diverts those sales tax revenues to other uses, possibly even outside Northern Virginia. The Northern Virginia Journal noted these diversions in an editorial last Sunday, the text of which is attached to this statement. Also attached is a memorandum summarizing numerous tax diversions since 1980. The latest diversion occurred just this year, when \$315 million of sales tax revenues were diverted from the Transportation Trust Fund to the Commonwealth's General Fund to cover unforeseen budget deficits.

Mr. Mayor and members of Council, thank you for your time this morning. Please reconsider your support for the sales-tax hike.

Distrust fund

WE SHOULD HAVE learned by now that anything called a “trust fund” should not be trusted.

That includes Virginia's so-called Transportation Trust Fund, whose name implies that the money stashed away there by the General Assembly has been dedicated to transportation improvements only.

But in April, \$142 million in the trust fund earmarked for highway construction was transferred to the Virginia Department of Transportation to repair existing roads.

The transfer, which left \$410 million for construction instead of \$552 million, was the first time since 1986 that VDOT used highway construction funds for maintenance.

1986, of course, was when the General Assembly increased the sales and use tax a half-cent to the current 4 1/2 cents, promising at the time to dedicate the increase to the TTF, which was set up specifically to pay for expensive new transportation projects.

But this year's raid on the TTF won't be the last. Over the next six years, an estimated \$800 million may be shifted the same way, then-acting VDOT Commissioner Ray Pethel said at the time.

The transfer was possible because of a “number of changes to the Virginia Transportation Act of 2000 (which) were included in the approved state budget,” according to the official summary of the 2002-04 state budget.

In order to balance the budget, “the debt ceiling for Federal Reimbursement Anticipation Notes is increased from \$800 million to \$1.2 billion, \$317 million of which is to replace the [fiscal year] 2003 highway construction portion of the state sales and use tax transferred to the general fund.”

The \$317 million, raised in anticipation of promised federal highway funding, was diverted to the general fund for routine maintenance on primary, secondary and city streets, leaving that much less for road and transit construction.

Budget documents note that "language expands the allowable use of FRAN proceeds to all projects included in the VTA, including those previously designated as general fund projects."

So federal highway money that was supposed to be used for construction can now be spent filling in potholes.

"While Gov. Mark Warner is asking Northern Virginians to increase their sales taxes \$140 million per year for transportation, he is willing to take \$300 million - and perhaps more - of already-dedicated sales tax revenues and transfer them out of the Transportation Trust Fund," said Fairfax County Taxpayers Alliance President Arthur Purves.

"Apparently one purpose of the TTF is to bail out the rest of government during economic downturns," he added, noting that "inflation-adjusted spending per resident for transportation was the same in 2002 as it was in 1979.

When Warner was running for office last year, he promised not to raise taxes, but to let the people decide whether they wanted to raise taxes themselves.

But 40 percent of Warner's transportation plan back then, which he unveiled last Sept. 19, was dependent on the proceeds of the sales tax referendum.

The state budget is now facing a \$1.5 billion shortfall. Even if people agree to a half-cent increase in the sales tax like the one in 1986, can they trust that the TTF won't be raided to pay for general fund obligations once again?

Warner never promised he wouldn't do that.

Copyright - The Journal Newspapers, September 8, 2002

PAST TAX DIVERSIONS

In 1980, Gov. John Dalton proposed, and the General Assembly enacted, an increase in the gasoline tax of two cents per gallon to provide funding for highway construction, which was greatly restricted due to dramatic increases in maintenance costs. Dalton insisted that the new tax revenues would assure an additional stream of construction funds. Within a few years, the evidence was clear that Virginia was running out of construction money again.

In 1986, Gov. Jerry Baliles proposed an increase in the statewide sales tax to guarantee a new stream of revenues to fund planned highway projects because, once again, Virginia was running out of construction funds due to rising maintenance costs and unanticipated increases in the cost of constructing new roads. Baliles promised that the new money would provide for Virginia's transportation needs into the 21st Century, but by 1989, Baliles was urging yet another tax increase because it had already become clear that construction funding would not be adequate.

Baliles's successor, Gov. Doug Wilder, requested a study of the problem. The resulting 1990 report concluded that the deficit between the amount needed to fund planned transportation projects and the amount of construction money available to fund those projects through 2005 was approximately \$38 billion.

In 1976 and 1993, the General Assembly enacted special taxes in Northern Virginia to fund specific transportation projects. Neither has solved the funding problem. The 1976 tax was a 2% sales tax on gasoline sold in NOVA. The 1993 tax was actually a dedication of a portion of state recordation taxes in NOVA for regional transportation needs.

Voters approved a 1987 referendum authorizing a state-owned, state-operated lottery on promises by proponents in the General Assembly that lottery proceeds would be used to fund public education. That promise was not kept. The electorate became enraged over the diversions and forced another referendum on a constitutional amendment earmarking the proceeds for public education. A constitutional amendment approved by the voters in 2000 appears to be the only way to force politicians to keep their promise.

On at least three occasions (1990, 2001 and 2002), sales tax revenues dedicated to transportation (*i.e.*, to the Transportation Trust Fund) have been diverted to the General Fund to cover unforeseen budget deficits. These diversions demonstrate that politicians' promises to earmark tax revenues are readily broken without legal recourse. Gov. Warner recently diverted \$315 million of sales tax revenues from the Transportation Trust Fund (earmarked by the Baliles legislation) to the General Fund to help balance the budget. When asked recently if he would guarantee that the proposed sales tax would never be diverted in the same way, he responded that he had a duty to balance the budget.